

REMARKS

Claims 1, 3-5, and 7-24 are currently pending in this application. In the Office Action mailed on September 30, 2009, claims 1-4 and 17-21 were rejected, and claims 5-16 were objected to for being in improper multiple dependent form. Applicants have amended claims 1, 3-5, and 7-20. Claims 2 and 6 have been canceled. New claims 22-24 have been added. No new matter has been entered. Applicants respectfully request favorable consideration of the present application in light of the amendments to the claims and the following remarks.

Claims 1, 3-5, 7-20, and 22-24

Independent claim 1 and particular dependent claims were rejected under 35 U.S.C. § 102(e) as being anticipated by Ferree (US 2003/0078579). Applicants respectfully submit that Ferree fails to anticipate all elements of amended claim 1.

Unlike claim 1, the Ferree reference fails to disclose a device that includes “**a common element folded into a plurality of portions**” with a “**first portion being formed by both end regions of the common element.**” The Examiner relies upon para, [0041] and [0042] of the Ferree reference for a purported disclosure of a device including first and second portions formed of a common element, thus describing an integral device. Even if this contention was correct (which it is not), the Ferree reference nevertheless fails to disclose a device that is a common element folded into several portions, as recited in claim 1. Furthermore, the Ferree reference fails to disclose the element of claim 1 wherein the first portion is formed by both ends regions of the common element. Even if the device of Ferree was formed of an integral, common element (which it is not), it does not disclose a device with a first portion formed by both end regions, as required by claim 1.

Applicant respectfully submits that claim 1 is patentable over Ferree and all other references cited in the record. Dependent claims 3-5, 7-20, and 22-24 are patentable at least for the same reasons as claim 1 and for the additional inventive combinations recited therein.

Claim 21

Independent claim 21 was rejected under 35 U.S.C. § 102(e) as being anticipated by Ferree (US 2003/0078579). Applicant respectfully traverses the rejection as set forth below.

Unlike claim 21, the Ferree reference fails to disclose a method of repairing a fissure in a material that includes, “*connecting the first portion to the second portion at one or more locations using the variable link, the variable link passing through the material.*” The Examiner relies upon Figs. 2 and 7D of the Ferree reference for a purported disclosure of the method as claimed by Applicants. The Applicant respectfully disagrees. The device and method described by the Ferree reference is for repairing a hole in an annulus (Para. [0039]). Even if the device includes a first portion and second portion connected by a variable link, the variable link in Ferree fails to pass through the material being repaired (namely, the annulus). As described in Para. [0040] & [0041], the connector portion 114 passes through the cylinder 108, which is placed within the hole in the annulus. Thus, rather than passing through the material that contains the fissure, as recited in claim 21, the connector portion 114 of Ferree *passes through the fissure itself*.

Accordingly, the Ferree reference fails to anticipate all elements of the claimed method. Applicant respectfully submits that method claim 21 is patentable over Ferree and all other references cited in the record.

Request for Reconsideration

The foregoing amendment has been submitted to place the present application in condition for allowance. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of claims 1, 19, 36, and 53 does not necessarily signify concession of unpatentability of those claims prior to the amendment. Favorable consideration and allowance of the claims in this application is respectfully requested. In the event that there are any questions concerning this Responsive Amendment or the application in general, the Examiner is cordially invited to telephone the undersigned attorney so that prosecution may be expedited.

Respectfully submitted,

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